

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 270 be amended to read as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 motor fuel and to make an appropriation.
- 4 Page 1, between the enacting clause and line 1, begin a new
- 5 paragraph and insert:
- 6 "SECTION 1. IC 6-2.5-7-5, AS AMENDED BY P.L.122-2006,
- 7 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 8 JULY 1, 2007]: Sec. 5. (a) Each retail merchant who dispenses
- 9 gasoline or special fuel from a metered pump shall, in the manner
- 10 prescribed in IC 6-2.5-6, report to the department the following
- 11 information:
- 12 (1) The total number of gallons of gasoline sold from a metered
- 13 pump during the period covered by the report.
- 14 (2) The total amount of money received from the sale of gasoline
- 15 described in subdivision (1) during the period covered by the
- 16 report.
- 17 (3) That portion of the amount described in subdivision (2) which
- 18 represents state and federal taxes imposed under this article,
- 19 IC 6-6-1.1, or Section 4081 of the Internal Revenue Code.
- 20 (4) The total number of gallons of special fuel sold from a
- 21 metered pump during the period covered by the report.
- 22 (5) The total amount of money received from the sale of special
- 23 fuel during the period covered by the report.
- 24 (6) That portion of the amount described in subdivision (5) that

represents state and federal taxes imposed under this article,
IC 6-6-2.5, or Section 4041 of the Internal Revenue Code.

(7) The total number of gallons of E85 sold from a metered pump
during the period covered by the report.

(b) Concurrently with filing the report, the retail merchant shall
remit the state gross retail tax in an amount which equals five and
sixty-six hundredths percent (5.66%) of the gross receipts, including
state gross retail taxes but excluding Indiana and federal gasoline and
special fuel taxes, received by the retail merchant from the sale of the
gasoline and special fuel that is covered by the report and on which the
retail merchant was required to collect state gross retail tax. The retail
merchant shall remit that amount regardless of the amount of state
gross retail tax which he has actually collected under this chapter.
However, the retail merchant is entitled to deduct and retain the
amounts prescribed in subsection (c), IC 6-2.5-6-10, and IC 6-2.5-6-11.

(c) A retail merchant is entitled to deduct from the amount of state
gross retail tax required to be remitted under subsection (b) the amount
determined under STEP THREE of the following formula:

STEP ONE: Determine:

(A) the sum of the prepayment amounts made during the
period covered by the retail merchant's report; minus

(B) the sum of prepayment amounts collected by the retail
merchant, in the merchant's capacity as a qualified distributor,
during the period covered by the retail merchant's report.

STEP TWO: Subject to subsection (d), for reporting periods
ending before July 1, ~~2008~~, **2020**, determine the product of:

(A) ten cents (\$0.10); multiplied by

(B) the number of gallons of E85 sold at retail by the retail
merchant during the period covered by the retail merchant's
report.

STEP THREE: Add the amounts determined under STEPS ONE
and TWO.

For purposes of this section, a prepayment of the gross retail tax is
presumed to occur on the date on which it is invoiced.

(d) The total amount of deductions allowed under subsection (c)
STEP TWO may not exceed ~~two one~~ million dollars ~~(\$2,000,000)~~
(\$1,000,000) for all retail merchants in all reporting periods. A retail
merchant is not required to apply for an allocation of deductions under
subsection (c) STEP TWO. If the department determines that the sum
of:

(1) the deductions that would otherwise be reported under
subsection (c) STEP TWO for a reporting period; plus

(2) the total amount of deductions granted under subsection (c)
STEP TWO in all preceding reporting periods;

will exceed ~~two one~~ million dollars ~~(\$2,000,000)~~, **(\$1,000,000)**, the
department shall publish in the Indiana Register a notice that the

deduction program under subsection (c) STEP TWO is terminated after the date specified in the notice and that no additional deductions will be granted for retail transactions occurring after the date specified in the notice."

Page 3, between lines 36 and 37, begin a new paragraph and insert:
 "SECTION 4. IC 15-9-5 IS ADDED TO THE INDIANA CODE AS
 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 1, 2007]:

Chapter 5. E85 Fueling Station Grant Program

Sec. 1. As used in this chapter, "E85 base fuel" has the meaning set forth in IC 6-6-1.1-103.

Sec. 2. As used in this chapter, "fueling station" refers to tangible property (other than a building and its structural components) consisting of:

- (1) a tank;**
- (2) a pump; and**
- (3) other components;**

that is used by a person engaged in the business of selling motor fuel at retail to enable motor fuel to be dispensed directly into the fuel tank of a customer's motor vehicle.

Sec. 3. As used in this chapter, "location" refers to one (1) or more parcels of land that:

- (1) have a common access to a public highway; and**
- (2) are or would appear to the reasonable person making an observation from a public highway to be part of the same business.**

Sec. 4. As used in this chapter, "motor vehicle" means any vehicle that:

- (1) is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails); and**
- (2) has at least four (4) wheels.**

Sec. 5. As used in this chapter, "qualified investment" refers to an ordinary and usual expense that is incurred after June 30, 2007, to do either of the following:

- (1) Purchase any part of a renewable fuel compatible fueling station for the purpose of:**
 - (A) installing the new renewable fuel compatible fuel station at a location on which a fueling station is not located; or**
 - (B) converting an existing fueling station that is not a renewable fuel compatible fueling station into a fueling station that is a renewable fuel compatible fueling station.**
- (2) Refit any part of a fueling station that is not renewable fuel compatible as a renewable fuel compatible fueling station, including the costs of cleaning storage tanks and piping to remove petroleum sludge and other contaminants.**

1 **Sec. 6. As used in this chapter, "renewable fuel compatible"**
 2 **means:**

- 3 (1) capable of storing and delivering E85 base fuel without
- 4 contaminants resulting from deterioration from constant
- 5 contact with alcohol fuels; and
- 6 (2) in conformity with applicable governmental standards, if
- 7 any, and other nationally recognized standards applying to
- 8 storage and handling of E85 base fuel, as determined under
- 9 the standards prescribed by the department.

10 **Sec. 7. The department may award a grant under this chapter**
 11 **to a person that:**

- 12 (1) makes a qualified investment; and
- 13 (2) places the qualified investment in service;
- 14 in Indiana for the dispensing of E85 base fuel into the fuel tanks of
- 15 motor vehicles.

16 **Sec. 8. A grant awarded under this chapter is equal to the lesser**
 17 **of the following:**

- 18 (1) The amount of the person's qualified investment.
- 19 (2) Five thousand dollars (\$5,000) for all qualified investments
- 20 made by the person at a single location.

21 **Sec. 9. The department shall do the following:**

- 22 (1) Prepare and supervise the issuance of public information
- 23 concerning the grant program established under this chapter.
- 24 (2) Prescribe the form and regulate the submission of
- 25 applications for grants under this chapter.
- 26 (3) Determine an applicant's eligibility for a grant under this
- 27 chapter.

28 **Sec. 10. The total amount of grants awarded under this chapter**
 29 **for all state fiscal years may not exceed one million dollars**
 30 **(\$1,000,000).**

31 **Sec. 11. (a) The E85 fueling station grant fund is established to**
 32 **provide grants under this chapter.**

33 (b) The fund consists of appropriations from the general
 34 assembly.

35 (c) The treasurer of state shall invest the money in the fund not
 36 currently needed to meet the obligations of the fund in the same
 37 manner as other public funds may be invested.

38 (d) The money in the fund at the end of a state fiscal year does
 39 not revert to the state general fund but remains in the fund to be
 40 used exclusively for purposes of this chapter.

41 (e) Money in the fund is continuously appropriated for the
 42 purposes of this chapter.

43 **Sec. 12. A grant awarded under this chapter is not subject to**
 44 **taxation under IC 6-3-1 through IC 6-3-7.**

45 **Sec. 13. A grant awarded under this chapter does not reduce the**
 46 **basis of the qualified property for purposes of determining any**
 47 **gain or loss on the property when the grant recipient disposes of**

1 **the property.**

2 SECTION 5. [EFFECTIVE JULY 1, 2007] **IC 6-2.5-7-5, as**
3 **amended by this act, applies to reporting periods ending after June**
4 **30, 2007.**

5 SECTION 6. [EFFECTIVE JULY 1, 2007] **(a) There is**
6 **appropriated to the department of agriculture one million dollars**
7 **(\$1,000,000) from the state general fund for deposit in the E85**
8 **fueling station grant fund established under IC 15-9-5, as added by**
9 **this act, beginning July 1, 2007, and ending June 30, 2008."**

10 **(b) This SECTION expires July 1, 2008.**

11 Renumber all SECTIONS consecutively.

(Reference is to ESB 270 as printed March 27, 2007.)

Representative Grubb